

OCEA – ANNUAL LEAVE PLAN PROVISIONS

PART III

OCEA – LEAVE OF ABSENCE PROVISIONS

Section 1. Authorized Leave Without Pay

A. Agency/Departmental Leave

A regular, limited-term or probationary employee may request an Agency/Departmental Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of the agency/department, except in cases where Official Leave has been authorized pursuant to B.4., B.5. and Section 11.A., below. The Agency/ Department Head may require that all accumulated compensatory time be used prior to granting of Agency/ Departmental Leave. The use of earned annual leave prior to the obtaining of Agency/Departmental Leave shall be at the option of the employee.

B. Official Leave

1. Upon request, a regular, limited-term or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year except as provided in 2. and 3., below. Such Leave may be authorized only after an employee's completion of an Agency/Departmental Leave and after all compensatory and the portion of the annual leave subject to 100% payoff have been applied toward payment of the absence.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of the agency/department except that requests for Official Leave which qualify as Family Leave pursuant to applicable law shall be granted to the extent required by such law. If the agency/department denies the extension of such Leave, the provisions of 5. and 6., below, shall not apply.
3. Upon request, an employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14 of the General Unit MOU, and applicable law, shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after an employee's completion of an Agency/Departmental Leave and after all accumulated compensatory time and the portion of the annual leave balance subject to 100% payoff have been applied toward the absence. In addition, where appropriate under the provisions of the Annual Leave Plan Parts I and II, Section 2, the employee may be required to apply annual leave accruals toward the absence before an Official Leave will be authorized.

4. An employee shall give notice two (2) weeks prior to the date he or she wants to return to work, except that an employee returning from Family Leave shall give the lesser of two (2) weeks notice or the maximum notice allowable under applicable law. If an employee does not give the required notice prior to the date he or she wants to return to work, the agency/department shall not be required to return the employee to work until the employee gives such notice; however, the agency/department may waive the notice or reduce the notice period at its discretion.
5. The agency/department shall indicate on the request its recommendations as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Personnel Director. If the Personnel Director approves the request, he or she shall deliver a copy to the Auditor-Controller and the employee.
6. If the Personnel Director modifies or does not approve a request for Official Leave, the employee and/or the agency/department may, within fifteen (15) calendar days of said action, file a request with the Personnel Director for review by the Board of Supervisors. Upon such request, the Personnel Director shall forward a copy of the request for Official Leave to the Board for final determination. The employee and the appealing agency/department shall notify the Personnel Director whether he or she will submit his or her position in a written statement or wishes to appear before the Board. The County may present its position in the same manner as the employee presents his or her position. The Board of Supervisors, at its discretion, may designate one (1) or more Executive Assistants to meet with the employee and decide such appeals. The decision on such appeals shall be final.
7. An Official Leave shall not be credited toward continuous service.

C. General Provisions

1. A request for a Leave of Absence shall be made upon forms prescribed by the Personnel Director and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence and the probable date of return.
2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the employee's agency/department only where the employee is unable to initiate such action, except in cases where the provisions of Section 2.A. apply.

D. Official Leave for Nonoccupational Disability

1. A regular, limited-term or probationary employee shall be granted, upon request, an Official Leave of Absence Without Pay for up to six (6) months for a nonoccupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
 - a. A medical statement covering diagnosis, prognosis, expected date of return and period of disability shall be submitted with the Leave request.

- b. Such Leave shall begin after all accrued compensatory time and annual leave have been applied toward the absence.
 - c. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
- 2. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 1.B., above.
- 3. An employee shall not be entitled to more than one (1) such Leave pursuant to this Section per twelve (12) month period.

E. Absences Caused by Illness, Injury or Pregnancy

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to illness, injury or pregnancy shall not be permitted to resume work until, and unless, the employee obtains a medical clearance from a physician designated by the County.

F. Parenthood Leave

- 1. A regular, limited-term or probationary employee shall be granted, upon request, a Parenthood Leave Without Pay of up to six (6) months in connection with the birth or placement for legal adoption of a child provided the employee meets the following conditions:
 - a. The requested Leave is commenced within six (6) months before or after the date of birth or placement for legal adoption of the child.
 - b. Sufficient documentation of such birth or placement for legal adoption is submitted with the request for Leave.
 - c. Such employee has completed new probation.
 - d. All accrued compensatory time and the portion of annual leave subject to 100% payoff have been applied toward the absence.
- 2. Unless otherwise required by law, employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.
- 3. Annual leave must be applied toward any portion of the absence which qualifies under Parts I and II, section 2.A.1. of this Article provided the employee has furnished the agency/department with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
- 4. Pregnant employees may also apply for a Nonoccupational Disability Leave for the term of disability as provided in Part III, section D. of this Article.
- 5. Parenthood Leave shall not be credited toward continuous service.

6. For employees on Parenthood Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

Section 2. Workers' Compensation Leave

- A. When an injury is determined to be job related in accordance with Article XI of the applicable MOU, a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave. If such determination cannot readily be made and the amount of annual leave subject to 100% payoff has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.
- B. Workers' Compensation Leave shall continue until the employee:
 1. is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 2. is determined to be physically able to return to work with medical restrictions which the County can accept and such determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 3. accepts employment outside the County; or
 4. accepts employment in another County position; or
 5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
 6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 Leave will give notice two (2) weeks prior to the date he or she wants to return to work. If an employee does not give two (2) weeks notice prior to the date he or she wants to return to work, the agency/department shall not be required to return the employee to work until such notice is given; however, the agency/department may waive the notice or reduce the notice period at its discretion.

Section 3. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
 1. The Presidential Leave shall be for a minimum of eight (8) hours.
 2. The Presidential Leave is requested fourteen (14) calendar days in advance. Said Notice may be waived by mutual agreement.

3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
 4. OCEA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.
 5. The employee shall continue to conform to the department rules and regulations that are not inconsistent with Presidential Leave.
 6. There is not a compelling need for the employee to perform County work.
 7. The employee is a standard or better performer.
 8. When the duration or frequency of Presidential Leave is such that the employee's absence imposes a hardship on Agency/Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Annual leave accrual rates will apply to the employee as though he or she were on duty status.
 - C. The merit increase eligibility date, if applicable, shall be extended a number of calendar days equal to the Presidential Leave. This extended merit increase eligibility date will be effective the first day of the pay period after said date.
 - D. The probation period, if applicable, shall be extended by the length of the Presidential Leave. The extended probation period shall end on the first day of the pay period following said extended date.
 - E. The employee's eligibility for promotional examinations shall not be affected by Presidential Leave.
 - F. Layoff points shall not be affected by Presidential Leave.
 - G. In the event emergency recall of the employee becomes necessary, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of A.1. through A.8., above, shall be suspended during said emergency recall.
 - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

Section 4. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit limited individual donations of annual leave or PIP leave time to an employee who is required to be on an extended unpaid leave due to a catastrophic medical condition or other serious circumstances.

Section 5. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law, including the following situations:
 - a. An employee's serious health condition.
 - b. The birth of a child or placement of a child for adoption or foster care.
 - c. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
2. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
3. Eligibility for Family Leave will be determined according to the requirements of applicable law.
4. When a request for Family Leave is approved, the agency/department shall determine whether annual leave or compensatory time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee.

B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the agency/department with thirty (30) calendar days notice of his or her intent to take Family Leave.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency/department operations.

C. Verification

As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.